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## NOTICE OF ALLOWANCE AND FEE(S) DUE

27572

7590

09/22/2008

HARNESS, DICKEY & PIERCE, P.L.C.  
P.O. BOX 828  
BLOOMFIELD HILLS, MI 48303

EXAMINER

SHAFFER, RICHARD R

ART UNIT

PAPER NUMBER

3733

DATE MAILED: 09/22/2008

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,940	09/09/2003	Jason D. Meridew	5490-000341	1613

TITLE OF INVENTION: METHOD AND APPARATUS FOR USE OF A SELF-TAPPING RESORBABLE SCREW

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1440	\$0	\$0	\$1440	12/22/2008

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. **PROSECUTION ON THE MERITS IS CLOSED.** THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN **THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE** OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. **THIS STATUTORY PERIOD CANNOT BE EXTENDED.** SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

## HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

**IMPORTANT REMINDER:** Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

# **PART B - FEE(S) TRANSMITTAL**

**Complete and send this form, together with applicable fee(s), to:** **Mail** **Mail Stop ISSUE FEE**  
**Commissioner for Patents**  
**P.O. Box 1450**  
**Alexandria, Virginia 22313-1450**  
**or Fax** **(571)-273-2885**

**INSTRUCTIONS:** This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

27572 7590 09/22/2008  
**HARNESSE, DICKEY & PIERCE, P.L.C.**  
**P.O. BOX 828**  
**BLOOMFIELD HILLS, MI 48303**

## **Certificate of Mailing or Transmission**

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/657,940 09/09/2003

Jason D. Meridew

5490-000341

1613

**TITLE OF INVENTION: METHOD AND APPARATUS FOR USE OF A SELF-TAPPING RESORBABLE SCREW**

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nonprovisional

NO

\$1440

\$0

\$0

\$1440

12/22/2008

EXAMINER	ART UNIT	CLASS-SUBCLASS
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SHAFFER, RICHARD R

3733

606-073000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a **Customer Number is required.**

2. For printing on the patent front page, list

(1) the names of up to 3 registered patent attorneys or agents OR, alternatively,

1

(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

2

3

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

**PLEASE NOTE:** Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

- ☐ Issue Fee  
☐ Publication Fee (No small entity discount permitted)  
☐ Advance Order - # of Copies \_\_\_\_\_

4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)

- ☐ A check is enclosed.  
☐ Payment by credit card. Form PTO-2038 is attached.  
☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number \_\_\_\_\_ (enclose an extra copy of this form).

5. **Change in Entity Status** (from status indicated above)

☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

**NOTE:** The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature \_\_\_\_\_

Date \_\_\_\_\_

Typed or printed name \_\_\_\_\_

Registration No. \_\_\_\_\_

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.**

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27572	7590	09/22/2008	EXAMINER	
HARNESS, DICKEY & PIERCE, P.L.C. P.O. BOX 828 BLOOMFIELD HILLS, MI 48303			SHAFFER, RICHARD R	
			ART UNIT	PAPER NUMBER
			3733	
DATE MAILED: 09/22/2008				

## Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 342 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 342 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

**Notice of Allowability****Application No.**

10/657,940

**Applicant(s)**

MERIDEW ET AL.

**Examiner**

Richard Shaffer

**Art Unit**

3733

**- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the AMENDMENT filed on 28 April 2008 and Claim Language AGREEMENT on 29 August 2008.
2. ☒ The allowed claim(s) is/are 1,2,4-10,20,21,23-27 and 29-44.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of the:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).  
\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.  
(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached  
1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.  
(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.  
Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

/Richard Shaffer/  
Examiner, Art Unit 3733

/Eduardo C. Robert/  
Supervisory Patent Examiner, Art Unit 3733

### **EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Chris Eusebi on August 29<sup>th</sup>, 2008.

The application has been amended as follows with underlined text relating to new limitations and [[ ]] related to deletion of text:

**CANCEL Claims 16-19, 28 and 45**

**REJOIN Claim 39**

**AMEND Claim 1 to recite:**

An implantation system comprising:

an implant having an exterior threaded surface portion, said exterior threaded surface portion defining first and second channels said first channel having a longitudinal axis and a first locking surface;

a driver, operable to be removably disposed within said first and second channels during the implantation of the implant, having a cutting portion and a driving portion, wherein the cutting portion is configured to form an implant engaging surface within a work material, and the driving portion is configured to drive the threaded portion into engagement with the implant engaging surface; and

a generally u-shaped fastener having first and second members, wherein the first member is disposed within the first channel and configured to be fixed to the implant and the second member is outside the first channel, said first member defining a second locking surface engaged with the first locking surface thereby restricting linear movement of the u-shaped fastener in a first direction along the longitudinal axis of the first channel, said fastener and implant defining an aperture therebetween, said aperture being configured to fixably engage graft material and, wherein at least one of the implant or the fastener defines a graft engaging surface within the aperture, said graft engaging surface comprising a graft engaging member configured to engage the graft.

**AMEND Claim 9 to recite:**

An implantation system comprising:

an implant having an exterior threaded surface which defines a pair of longitudinal channels, said longitudinal channels intersecting the exterior threaded surface;

a driver having a cutting portion and a driving portion, wherein the cutting portion is configured to form an implant engaging surface within a work material, and the driving portion is configured to interface with a longitudinal channel of the implant to drive the threaded surface into engagement with the implant engaging surface, wherein the implant defines an anchor locking surface; and

a staple configured to be at least partially disposed within the longitudinal channels having an upward locking surface, the upward locking surface engaged with

the anchor locking surface so as to restrict translation of the staple in a first direction along a longitudinal axis of one channel of the pair of longitudinal channels.

**AMEND Claim 20 to recite:**

A method of connecting an implant to a bone comprising:

forming an implant engaging surface within a bone aperture by rotating a driver within the bone aperture;

driving the implant into the bone aperture with the driver, wherein a threaded surface defining an arcuate groove of the implant engages the implant engaging surface, said implant further defining first and second longitudinal channels having first and second longitudinal axis within the threaded surface;

inserting a staple into the first and second longitudinal channels defined within the threaded surface;

fixably coupling the staple to the first and second longitudinal channels so as to restrict movement in a first direction along [[a]] the first channel longitudinal axis, whereby the staple bindingly engages both the implant and a surface defining the bone aperture, said staple further intersecting the groove; and

preventing rotation of the implant with respect to the bone with the staple in the first longitudinal channel.

**AMEND Claim 29 to recite:**

The method of claim [[28]] 21 wherein inserting the staple into the slot and inserting the staple into the channel are performed simultaneously.

**AMEND Claim 32 to recite:**

A method of connecting an implant to a bone comprising:

forming an implant engaging surface within a bone aperture, said implant engaging surface defining a longitudinal channel;

driving the implant into the bone aperture, wherein an exterior threaded surface defining an arcuate groove of the implant engages the implant engaging surface;

inserting a staple along a first direction into a slot having a slot axis defined in the threaded surface, whereby the staple bindingly intersects the groove and engages both the implant and the bone aperture so as to resist rotation of the implant;

engaging a locking surface of the staple with a surface of the implant so as to restrict linear movement of the staple in a [[first]] second direction along the slot axis and with respect to the implant; and

interposing a graft between the implant and a surface defining the staple.

**AMEND Claim 36 to recite:**

A method of driving an implant comprising:

forming an aperture within a bone;

defining a cutting surface accepting channel having a channel axis and a thread defining an arcuate groove in an exterior surface of the implant;



coupling the implant to a driver so as to position ~~[[the]]~~ a cutting surface within the channel;

driving the implant into the aperture while the driver is in the channel;

forming an implant engaging surface within the aperture;

disposing a fastener within the channel in a first direction along the channel axis;

coupling the fastener to the channel so as to prevent linear translation of the ~~staple~~ fastener along the channel axis in a second direction with respect to the implant;

interrupting the arcuate groove and preventing rotation of the implant with respect to the aperture; and

coupling soft tissue to the fastener.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard Shaffer whose telephone number is (571)272-8683. The examiner can normally be reached on Monday-Friday (7am-5pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eduardo Robert can be reached on 571-272-4719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Richard Shaffer/  
Examiner, Art Unit 3733  
/Eduardo C. Robert/  
Supervisory Patent Examiner, Art Unit 3733